

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-KC-561
)	
AAT Communications Corporation)	NAL/Acct. No.200232560025
Owner of Antenna Structure #1007507)	
located near Joplin, Missouri)	FRN 0003-4776-76
Iselin, New Jersey)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 13, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find AAT Communications Corporation (“AAT”), owner of antenna structure #1007507, apparently liable for a forfeiture in the amount of two thousand dollars (\$2,000) for willful and repeated violation of Section 17.47(a) of the Commission's Rules (“Rules”).¹ Specifically, we find AAT Communications Corporation apparently liable for failure to monitor the status of its antenna structure lighting.

II. BACKGROUND

2. On July 16, 2002, the Commission’s Kansas City Field Office (“Kansas City Office”) received information concerning an antenna structure with an inoperable top flashing beacon. According to the complaint, the beacon had been inoperable for approximately two months on the 400 foot tower. Based on information provided by the complainant, the agent checked the Commission’s Antenna Structure Registration database and determined the antenna structure was #1007507, located at the latitude-longitude coordinates N36-58-54, W094-28-37 with a listed height of 122.8 meters (403 feet). The registered owner of the structure was AAT.

3. Also on July 16, 2002, the agent interviewed via telephone AAT representative John Stracko concerning the outage. During the interview, Mr. Stracko stated that AAT does not maintain any automatic equipment to monitor the lighting on the structure and does not conduct regular visual inspections of the tower. Instead, the owner relies on reports from tenants, such as the Newton County Sheriff’s department to contact them if they observe a light outage on the structure. The AAT representative had not received any reports of lights being out on this structure, and could not provide the duration that the beacon had been inoperable, but he did file a report with the Federal Aviation Administration (“FAA”) upon being notified of the outage by the agent. The AAT representative further stated that a repair order had been placed to their contractor to check on the outage.

¹ 47 C.F.R. § 17.47(a).

4. On July 19, 2002, the agent contacted Lt. Leavens, Newton County Sheriff's Department, concerning the lighting on the structure. According to Lt. Leavens, he is the only Sheriff's Department member residing in the vicinity of the tower and he personally had no knowledge of the condition of the lighting on that tower during the past several weeks. Furthermore, Lt. Leavens stated that to his knowledge no other department employee was making observations of the lighting on that tower.

5. Also on July 19, 2002, AAT representative John Stracko contacted the Kansas City Office by telephone and stated that the beacon was discovered inoperative and was repaired on July 18, 2002, and that an order was to be placed the next week for an automatic remote system to monitor the lighting. Mr. Stracko stated that no person was assigned to monitor the lighting visually during the interim period prior to installation of the remote system.

III. DISCUSSION

6. Section 17.47(a) of the Rules requires the owner to make observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator, or by a properly maintained automatic alarm system. On July 16, 2002, the top beacon on AAT's antenna structure #1007507 was reported to be inoperable by a citizen living near the tower. The FCC notified AAT of the outage. AAT stated it had not been monitoring the condition of the lighting on this tower as required and did not know the beacon was inoperable until notified by the FCC on July 16, 2002. AAT further confirmed the outage of the beacon when repairs were made to that beacon on July 18, 2002. As of July 19, 2002, AAT admitted that they continued to fail to provide any monitoring of the lighting every 24 hours or provide an automatic alarm system.

7. Based on the evidence before us, we find AAT willfully² and repeatedly³ violated Section 17.47(a) of the Rules by failing to monitor the status of its antenna structure lighting.

8. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for failing to monitor the status of its antenna structure lighting (failure to conduct required monitoring) is \$2,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

Considering the entire record and applying the factors listed above, this case warrants a \$2,000 forfeiture.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ AAT Communications Corporation is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of two thousand dollars (\$2,000) for willful violation of Section 17.47(a) of the Rules by failing to monitor the status of its antenna structure lighting.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, AAT Communications Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and

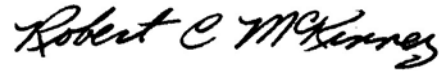
⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁸ See 47 C.F.R. § 1.1914.

Certified Mail Return Receipt Requested to AAT Communications Corporation, 517 Route 1 South, Suite 5000, Iselin, NJ 08830.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Robert C. McKinney". The signature is written in a cursive, flowing style.

Robert C. McKinney
Kansas City Office, Enforcement Bureau